

Malayan Union dan Persekutuan 1948

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Pengenalan

Perlembagaan Malayan Union yang diperkenalkan pada 1 April 1946 dan Perlembagaan Persekutuan Tanah Melayu yang berkuatkuasa pada 1 Februari 1948, meskipun telah melahirkan sebuah negara bangsa baru, namun dari segi perundangan dan struktur pemerintahannya memperlihatkan pertentangan yang ketara. Perlembagaan Malayan Union, memindahkan segala kekuasaan Raja-raja Melayu kepada Raja Britain sekaligus telah menenyapkan kedaulatan para baginda. Manakala dalam Perlembagaan Persekutuan 1948, kedaulatan Raja-raja Melayu telah dikembalikan. Walau bagaimanapun, dalam Perlembagaan Persekutuan 1948, para baginda perlu menyerahkan sebahagian daripada kekuasaan baginda bagi membolehkan kerajaan pusat yang dibentuk dapat berfungsi dalam sistem pemerintahan persekutuan. Perlembagaan Malayan Union juga dilihat memperuntukkan pelaksanaan pemerintahan bersifat kesatuan. Kerajaan pusatnya diketuai oleh seorang Gabenor yang diperuntukkan kuasa yang begitu luas. Kerajaan negeri sungguhpun dikekalkan namun tidak ditetapkan sebarang bidang kuasa kecuali jika diturunkan oleh kerajaan pusat. Perlembagaan Persekutuan 1948 pula, meletakkan Negeri-negeri Melayu, Pulau Pinang dan Melaka di bawah sistem persekutuan yang menggariskan pemisahan kuasa yang jelas antara kerajaan pusat dan kerajaan negeri. Memandangkan perbincangan mengenai Malayan Union dan Persekutuan 1948 telah banyak diperkatakan oleh para sarjana, maka kertas ini akan lebih difokuskan kepada persoalan-persoalan seperti sejauh mana mudahnya MacMichael memperoleh tandatangan Raja-raja Melayu, pelaksanaan Perlembagaan Malayan Union dan

sejauh mana perlembagaan Persekutuan 1948 telah menetapkan Raja-raja Melayu pada kedudukan seperti mana sebelum tercetusnya perang.

Pembicaraan mengenai ketiga-tiga aspek tersebut sememangnya suatu keperluan disebabkan masih terdapat isu dan ruang untuk diperkatakan. Menurut Simon C. Smith, ‘*..the general concensus is that MacMichael completed his task with little real opposition from the rulers.*’¹ Sementara itu Richard Stubbs pula menyatakan ‘*...MacMichael was able to secure their (the Rulers) agreement to the terms of the Malayan Union with remarkably little fuss.*’² Namun begitu, jika diteliti reaksi Raja-raja Melayu, misi MacMichael tidaklah semudah seperti mana yang disangkakan. Begitu juga dengan Perlembagaan Malayan Union tidak dapat dilaksanakan sepenuhnya atas pelbagai halangan. Persoalan mengenai kedudukan Raja-raja Melayu dalam Perlembagaan 1948 perlu diberi pertimbangan yang teliti memandangkan ramai pihak yang beranggapan bahawa kedaulatan Raja-raja Melayu telah dikembalikan kepada kedudukan sepertimana sebelum Perang Dunia Kedua.

Misi Sir Harold MacMichael , 18 Oktober 1945-21 Disember 1945

Jepun menyerah kalah pada 15 Ogos 1945 dan pada 3 September 1945, tentera British telah mendarat di Pulau Pinang. Manakala pada 5 September 1945, pentadbiran tentera British bermula di Tanah Melayu. Pada 11 Oktober 1945, Sir Harold MacMichael sebagai wakil kerajaan Britain tiba di Pelabuhan Swettenham dengan kapal *Royalist*. Dalam tempoh antara 18 Oktober hingga 21 Disember 1945, MacMichael telah menjelajah ke seluruh negeri Melayu bagi mendapatkan tandatangan baginda menyerahkan kuasa perundangan kepada kerajaan Britain. Pada 22 Januari 1946, kertas putih mengenai Malayan Union telah diisytiharkan untuk bacaan awam. Allen dalam kajiannya berpendapat bahawa British

¹ Simon C. Smith, *British Relations with the Malay Rulers From Decentralization to Malayan Independence 1930-1957*, New York: Oxford University Press, 1995, hlm. 60.

² Richard Stubbs, *Hearts and Minds in Guerrilla Warfare: The Malayan Emergency, 1948-1960*, Singapore: Oxford University Press, 1989, hlm. 23.

sememangnya merancang untuk memindahkan kedaulatan Raja-raja Melayu kepada Raja Britain. Sehubungan itu, Allen menyimpulkan bahawa perjanjian MacMichael merupakan suatu penaklukan ke atas Tanah Melayu.³

Sungguhpun tugas MacMichael dilihat berjalan lancar, namun pada hakikatnya ia tetap dilaksanakan dengan penuh berhati-hati. British khuatir sekiranya terdapat Raja Melayu yang tidak bersetuju menurunkan tandatangan bermakna rancangan Malayan Union akan gagal. Perhitungan itu dapat diukur daripada beberapa petunjuk. Sebagai contoh pihak British telah memperincikan pilihan orang yang paling layak menjalankan tanggungjawab untuk mendapatkan tandatangan Raja-raja Melayu. MacMichael dipilih kerana pertimbangan pengalamannya di Transjordan dan Palestin. Di pihak MacMichael pula, untuk tidak menggagalkan segala perancangan yang telah diatur, dia meminta supaya perjalanannya dibekalkan dengan persiapan yang dapat meninggikan prestijnya sebagai wakil Raja Britain. Ini penting kerana baginya, Raja-raja Melayu sangat mengambil berat soal martabat dan ketinggian status.⁴ Antara lain MacMichael juga meminta dirinya dilantik sebagai ahli Majlis Privy bagi membolehkannya memakai gelaran *Right Honourable*. Dia juga mahukan pelayarannya ke Tanah Melayu menaiki kapal perang Diraja yang besar. Ketibaannya di Tanah Melayu perlu disambut dengan upacara yang gemilang. Ini perlu dilakukan di Pelabuhan Swettenham dan bukannya di pelabuhan Pulau Pinang atau Singapura. Kediamannya di Kuala Lumpur mestilah di King House (sekarang Carcosa Seri Negara). Kenderaannya pula mestilah sebuah kereta salon yang besar dan warnanya bukan warna kenderaan tentera.

Untuk memastikan misi MacMichael disempurnakan dengan baik, seorang wakil telah dihantar terlebih dahulu untuk meninjau sejauh manakah sokongan Raja-raja Melayu

³ J.de V. Allen, *The Malayan Union*, New Heaven, Yale: University Southeast Asia Studies, 1967, hlm. 18-19.

⁴ Albert Lau, *The Malayan Union Controversy 1942-1948*, Singapore: Oxford University Press, 1991, hlm. 109.

terhadap British. Tanggungjawab ini dilaksanakan oleh H.C Willan.⁵ Willan menjalankan tugasnya antara 8-20 September 1945.⁶ Laporan Willan menampakkan keyakinan yang tinggi bahawa Raja-raja Melayu akan menyokong British memberi kelegaan kepada MacMichael. Walau bagaimanapun MacMichael tetap dibekalkan dengan satu senjata yang mustajab iaitu jangan mengiktiraf Raja-raja Melayu yang tidak mahu menurunkan tandatangan. Willan juga telah membekalkan satu senarai pengganti yang layak bagi sultan yang enggan bekerjasama. Selain itu, MacMichael juga tidak berseorangan dalam menjalankan tugasnya. Dia ditemani oleh A.T. Newbolt.⁷ Kehadirannya menurut MacMichael amat membantu. Malah, MacMichael menyebut dalam laporannya, tanpa Newbolt perjanjian dengan Raja-raja Melayu tidak mungkin dapat disempurnakan dengan lancar.⁸

Sungguhpun tugas MacMichael dilihat berjalan lancar, namun pada hakikatnya ia bukanlah suatu tugas yang mudah. Hanya Johor dan Selangor sahaja bersetuju menandatangani perjanjian tersebut tanpa banyak bantahan atas dasar setia kawan. Manakala di Negeri-negeri Melayu lain seperti Perak, Kedah, Negeri Sembilan dan Perlis MacMichael terpaksa menggunakan senjata ugutan sama ada tidak mengiktiraf baginda sebagai Sultan ataupun menggantikan baginda dengan calon Sultan yang baru. Manakala di Pahang, Kelantan, dan Terengganu MacMichael turut menerima tentangan daripada para baginda tetapi tentangan tersebut tidaklah begitu kuat. Oleh itu, laporan Willan ternyata tidak menepati harapan MacMichael.

⁵ H.C Willan merupakan Timbalan Ketua Hal Ehwal Awam dalam pentadbiran tentera British di Tanah Melayu. Sebelum Perang Dunia Kedua, beliau juga pernah menjawat kedudukan sebagai Tmbalan Penasihat Undang-undang bagi Negeri-negeri Melayu Bersekutu pada tahun 1934.

⁶ Albert Lau, *The Malayan Union Controversy 1942-1948*, hlm. 104-116.

⁷ A.T. Newbolt dilahirkan pada tahun 1896. Beliau menerima pendidikan di Kingwood school dan oxford. Pada tahun 1920, Newbolt menyertai Malayan Civil Servis (MCS). Manakala pada tahun 1940, Newbolt dilantik sebagai setiausaha bagi Negeri-negeri Melayu Bersekutu (NNMB). Selain itu, beliau juga merupakan ahli bagi Malayan Planning Unit (MPU). Sebagai seorang ahli MCS, Newbolt sebenarnya sangat dikenali dalam kalangan Raja-raja Melayu. Oleh itu, beliau berperanan besar dalam usaha MacMichael mendapatkan tandatangan Raja-raja Melayu.

⁸ A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, Kuala Lumpur: MBRAS Monograph No: 8, 1979, hlm. 50.

MacMichael memulakan lawatan tugasnya di Johor pada 18 Oktober 1945 menghadap Sultan Ibrahim. Baginda hanya diberi masa satu malam untuk membaca dokumen tersebut. Pada 20 Oktober 1945 Sultan Ibrahim telah menurunkan tandatangannya. Keputusan itu diambil tanpa mendapatkan pertimbangan Majlis Menteri atau badan perundangan Johor terlebih dahulu terutamanya mengenai isi kandungan dokumen tersebut. Oleh itu, Mac Michael dalam laporannya kepada pihak atasan di England memaklumkan bahawa rundingannya dengan Sultan Ibrahim berjalan dengan baik sekali dan secara tidak langsung memberi keyakinan yang tinggi kepada MacMichael untuk mendapatkan tandatangan Raja-raja Melayu yang lain. Hal ini disebabkan MacMichael berpendapat, jika Sultan Ibrahim sudah bersetuju dengan Malayan Union, maka tidak sukar untuk pihak British mendapatkan persetujuan dari sultan-sultan negeri yang lain. Misalnya, MacMichael berjaya mendapatkan tandatangan Sultan Hishammudin Alam Shah pada 24 Oktober 1945 iaitu empat hari selepas Sultan Ibrahim menurunkan tandatangannya. Begitu juga di Pahang apabila MacMichael hanya mengambil masa dua hari sahaja untuk mendapatkan tandatangan Sultan Abu Bakar pada 2 November 1945.

Walau bagaimanapun, tidak semua Raja-raja Melayu menerima mudah perlembagaan tersebut. Di Negeri Sembilan misalnya MacMichael terpaksa berhadapan dengan tentangan dari Tuanku Abdul Rahman. Yam Tuan menganggap perjanjian Malayan Union merupakan isu sensitif yang dilihat akan menjejaskan maruah dan statusnya sebagai Yam Tuan. Oleh itu, Yam Tuan menolak untuk menandatangani perjanjian tersebut. Selain Yam Tuan, empat Undang iaitu Dato' Maamor bin Kassim (Dato' Kelana Putera, Undang Luak Sungai Ujong), Dato Shahmaruddin bin Abdul Rahman (Dato' Mendelika Menteri Akhir Zaman, Undang Luak Jelevu), Dato' Kamat bin Sulaiman (Dato' Johan Pahlawan Lela Perkasa Setiawan, Undang Luak Johol) dan Dato' Haji Ipap bin Abdullah (Dato' Lela Maharaja, Undang Luak Rembau) turut membantah tindakan MacMichael memaksa Tuanku Abdul Rahman

menandatangani perjanjian tersebut.⁹ Antara keempat-empat Undang tersebut, Dato Rembau dilihat sangat tidak bersetuju dengan perbuatan menurunkan tandatangan itu. Malah, Dato Kelana yang sedang uzur ketika itu turut datang ke Seri Menanti berjumpa dengan MacMichael bagi menyuarakan rasa tidak puas hatinya terhadap tindakan MacMichael. Manakala, Dato Jelevu pula berpendapat bahawa, ‘... Malayan Union merupakan suatu perkara yang sudah jadi dan sungguhpun ia ditentang, ia berkata di dalam keadaan seperti ini, tidaklah ada bezanya sama ada ia menurunkan tandatangan ataupun tidak’. Dato’ Johol pula merupakan seorang yang sangat tua dan boleh dikatakan tidak mengenal huruf dan nyata sekali tidak memahami betul-betul apa yang sedang berlaku.¹⁰ Sebagai seorang peguam, Yam Tuan menyedari bahawa perlembagaan ini ternyata akan merugikan kedudukannya sebagai Yam Tuan dan orang Melayu secara keseluruhannya. Oleh itu, Yam Tuan menuntut untuk ke pergi ke London berjumpa sendiri dengan Setiausaha Pejabat Tanah Jajahan London bagi meminda semula memorandum tersebut.¹¹ Namun begitu, pada 14 November 1945, Tuanku Abdul Rahman akhirnya terpaksa menurunkan tandatangan setelah didesak oleh MacMichael.

Setelah berjaya mendapatkan tandatangan Tuanku Abdul Rahman, MacMichael menghadap Sultan Abdul Aziz di Perak pada 20 November 1945. MacMichael berpendapat Sultan Abdul Aziz merupakan antara Sultan yang cerdas dan tegas. Oleh itu, MacMichael merasakan bahawa tugasnya untuk mendapatkan tandatangan Sultan Abdul Aziz bukanlah tugas yang mudah. Ternyata apa yang dirasakan oleh MacMichael adalah benar. Sama seperti Tuanku Abdul Rahman di Negeri Sembilan, Sultan Abdul Aziz juga berpendapat bahawa perjanjian itu bukan sahaja tidak menguntungkan orang Melayu, malah mengancam kedaulatan serta ketuanan orang Melayu apabila kedaulatan Raja-raja Melayu dihapuskan. Malah, menurut Sultan Abdul Aziz lagi dasar kerakyatan yang liberal ini akan menyebabkan

⁹ A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, hlm. 54.

¹⁰ Ibid.

¹¹ Simon C. Smith, *British Relations with the Malay Rulers From Decentralization to Malayan Independence 1930-1957*, hlm. 63.

orang Melayu kehilangan kedudukannya sebagai penduduk Bumiputera akibat daripada kerakyatan Malayan Union longgar. Baginda juga bimbang orang Melayu akan menjadi satu masyarakat yang kecil di Tanah Melayu, manakala golongan bukan Melayu pula akan bertambah. Orang Melayu juga akan kehilangan hak dan keistimewaan mereka di bumi sendiri apabila mereka dianggap mempunyai taraf yang sama dengan golongan bukan Melayu. Oleh itu, Sultan Abdul Aziz juga dilihat cuba melengah-lengahkan masa untuk menandatangani perjanjian tersebut. Baginda memberi alasan bahawa, beliau perlu berbincang dengan ahli kerabatnya yang lain terlebih dahulu sebelum bersetuju menurunkan tandatangan. Akhirnya, pada 22 November 1945, Sultan Abdul Aziz juga terpaksa menurunkan tandatangannya terhadap perjanjian Malayan Union ini.

Selepas Perak, MacMichael menghadap Sultan Badlishah di Kedah pada 29 November 1945. Di Kedah, tentangan yang diterima oleh MacMichael tidak kurang hebatnya. Beliau juga terpaksa menggunakan ugutan sebagai senjata utamanya apabila Sultan Badlishah dilihat begitu degil dan berkeras dengan keputusannya untuk tidak menandatangani perlembagaan Malayan Union. Dalam pertemuan pertamanya dengan Sultan Badlishah, berlaku perdebatan hebat antara kedua-dua pihak. Menurut MacMichael, Sultan Badlishah belum lagi diakui sebagai Sultan oleh Kerajaan British. Baginda cuma diakui sebagai bakal Sultan sahaja. Selain itu, selama Penasihat British berada di Kedah, Sultan tidak berkuasa mutlak dan Kedah bukanlah sebuah negeri yang bebas. Malah, menurut MacMichael lagi, ‘*it was fortune that his majesty government had not concluded as would have been consonant with modern conception democratic government that the sultanates were altogether out of date*’.¹² Sultan Badlishah membidas kenyataan tersebut dan mengatakan bahawa perjanjian baru ini merupakan salah satu tipu muslihat British untuk menukarkan taraf Negeri-negeri Melayu daripada sebuah negeri naungan kepada tanah jajahan British. Malah ia dilihat

¹² Ibid., hlm. 62.

sebagai satu usaha British untuk memanjangkan lagi tempoh penjajahan British di Tanah Melayu. Menurut Sultan Badlishah lagi, '*the technique adopted by His Majesty's Government appeared to be not unlike the familiar Japanese technique of bullying*'.¹³ Pada masa yang sama, MacMichael turut menegaskan bahawa Sultan Johor sudah pun menurunkan tandatangan baginda dan jika terdapat perkara-perkara yang merugikan kedudukan Raja-raja Melayu sudah pasti Sultan Johor tidak akan menurunkan tandatangannya terhadap perjanjian baru itu. MacMichael terkejut apabila Sultan Badlishah menjawab, tidak semestinya Kedah akan mengikut apa yang dibuat oleh Johor.¹⁴

Selain Sultan Badlishah, ahli-ahli Majlis Mesyuarat Negeri Kedah yang lain turut membantah Perlembagaan Malayan Union. Setelah tiga hari berbincang, ahli-ahli Majlis Mesyuarat Negeri Kedah yang diketuai Tuan Haji Mohammad Sheriff akhirnya terpaksa beralah dengan Newbolt dan MacMichael. Tunku Yaakub mencadangkan supaya baginda Sultan menurunkan tandatangan kerana tidak ada jalan lain lagi.¹⁵ Manakala, Haji Mohammad Sheriff juga telah menggunakan pelbagai helah dan kepintarannya untuk menolak dan melambat-lambatkan tandatangan tersebut. Pada 2 Disember 1945, MacMichael sekali lagi datang menemui Sultan Badlishah untuk mendapatkan tandatangan baginda. Malah Mac Michael turut mengingatkan baginda bahawa, '*...his formal recognition as Sultan would depend on his assurances that he was prepared to sign the treaty*'. Jika tidak baginda akan diturunkan takhtanya sebagai Sultan. Dengan rasa berat hati, Sultan Badlishah akhirnya terpaksa menurunkan tandatangannya. Menurut baginda, '*...this was the most distressing and painful moment of his entire life*'.¹⁶

Setelah bersusah payah mendapatkan tandatangan Sultan Badlishah, MacMichael seterusnya berangkat ke Perlis untuk menemui Raja Perlis. Di Perlis, tugas MacMichael juga

¹³ Ibid.

¹⁴ A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, hlm. 57.

¹⁵ Ibid.

¹⁶ Ibid.

tidak mudah. MacMichael terpaksa berhadapan tentangan daripada Tuanku Syed Putra Jamalullai dan beberapa orang pembesar negeri yang lain. Tentangan diterima apabila MacMichael mendesak Raja Perlis menurunkan tandatangannya. Malah, Tuanku Syed Putra Jamalullai juga didesak untuk menyerahkan kedaulatan Kerajaan Perlis, namun baginda menolak. Tambahan pula, kandungan perjanjian Malayan Union amat bertentangan dengan Perjanjian Perlis-British 1930 yang dimeterai oleh Raja Syed Alwi. Dalam situasi ini, beberapa orang para pembesar negeri Perlis seperti Haji Ahmad Mohamad, Wan Ahmad Daud dan Sheikh Ahmad Mohd juga dilihat menyokong kuat keputusan baginda untuk tidak menurunkan tandatangannya. Melihat kepada situasi tersebut, MacMichael menegaskan bahawa British masih boleh mendapatkan tandatangan daripada individu lain dengan cara menurunkan baginda daripada takhta kerajaan Perlis. Oleh itu, dengan rasa berat hati Tuanku Syed Putra Jamalullai telah menurunkan tandatangannya pada 4 Disember 1945.¹⁷ Walau bagaimanapun sebaik sahaja baginda menurunkan tandatangannya, Tuanku Syed Putra Jamalullai telah mengirimkan telegram kepada kerajaan British di London untuk menyuarakan rasa tidak puas hatinya terhadap tindakan MacMichael. Malah baginda bersama-sama dengan Raja-raja Melayu yang lain turut memulaukan upacara perlantikan Sir Edward Gent sebagai Gabenor Malayan Union kemudiannya.

Seterusnya MacMichael pergi ke Kelantan dan berjaya mendapatkan tandatangan Sultan Ibrahim pada 17 Disember 1945.¹⁸ Di Kelantan MacMichael turut mendapat beberapa bantahan kecil daripada baginda. Seperti biasa, MacMichael menggunakan kuasa yang diberikannya oleh London untuk tidak mengiktiraf mana-mana Raja-raja Melayu yang enggan menurunkan tandatangan mereka. Oleh itu, Sultan Ibrahim akhirnya bersetuju menandatangani perjanjian tersebut pada 17 Disember 1945.

¹⁷ Ibid., hlm. 63.

¹⁸ Ibid.

Manakala Terengganu pula merupakan negeri terakhir yang dikunjungi oleh MacMichael dalam usaha mendapatkan tandatangan kesemua Raja-raja Melayu. Di Terengganu, Newbolt telah mengadap Sultan Ismail di Istana Maziah untuk mendapatkan persetujuan Sultan mengenai rancangan Malayan Union. Sultan Ismail pada mulanya agak keberatan untuk menandatangani dokumen tersebut kerana baginda sedar tindakannya itu adalah bercanggah dengan Undang-undang Tubuh bagi Negeri Terengganu yang tidak membenarkan Sultan bertindak sendirian untuk menyerahkan negeri kepada mana-mana kuasa. Fasal XIV Undang-undang Tubuh bagi Negeri Terengganu menjelaskan bahawa,

“Maka tiada lulus dan sah tiada sah sekali2 Raja membuat perjanjian atau ikhtiar melepaskan atau menyerahkan negeri dan kerajaannya atau suatu bahagian daripada kuasa kerajaan atau haknya itu kepada sebarang mana2 kerajaan atau kepada kuasa2 bangsa Eropah atau lainnya. Maka jika Raja cubacuba lalui larangan dan tegahan itu nescaya disifatkanlah akan dia memecahkan amanah yang diletakkan atasnya serta tiada sah perbuatan yang demikian itu. Maka tatkala itu tiadalah diwajibkan di atas ahli2 kerajaan dan segala rakyat bersetia lagi dengan dia haruslah diturunkan dia daripada takhta kerajaannya. Dan diangkat gantinya pula.”¹⁹

Bagaimanapun Dato Jaya Perkasa,²⁰ menasihati Sultan Ismail supaya menandatangani perjanjian itu kerana menurutnya perkara tersebut tidak bercanggah dengan Undang-undang Negeri bagi Terengganu. Pada pandangannya, ‘...*Clausula 14 of the Constitution was meant to stop a Sultan from selling (as Singapore was sold years ago) leasing or pawning the state of any foreign state, that was not the purpose of the new treat*’.²¹ MacMichael pula menambah bahawa kerajaan British tidak pernah mengiktiraf Undang-undang tersebut. Berpandukan nasihat itulah, Sultan Ismail akhirnya bersetuju untuk menandatangani dokumen tersebut pada 21 Disember 1945.

¹⁹ Petikan ini diambil dari Nik Anuar Nik Mahmud, “Tengku Ali, British dan Takhta Terengganu” dalam *JEBAT*, 2001, hlm. 34-35.

²⁰ Nama sebenar beliau ialah Dato Jaya Perkasa Che Da Omar Mohamad. Beliau merupakan bekas Setiausaha Kerajaan Negeri Terengganu.

²¹ Lihat Laporan T.A., Newbolt: Notes of Interview Between Brigadier A.T. Newbolts and His Highness The Sultan Elected of Terengganu and Leading Malay Notables on 20th December at the Istana MaziA dlm C.O 5237/2138.

Oleh itu, pihak British begitu terhutang budi kepada Dato Jaya Perkasa. Newbolt dalam laporannya kepada MacMichael menyatakan,

“The Dato Jaya has always been pro-British, ever since the early days when the practical applications of such sentiment was highly unpopular is doubly refreshing to find him occupying the chief post in the State, a reward for loyal services.”²²

Setelah dua bulan berusaha memujuk Raja-raja Melayu, akhirnya pada 21 Disember 1945, MacMichael berjaya mendapatkan kesemua persetujuan Raja-raja Melayu untuk melaksanakan perlembagaan Malayan Union. Walaupun masa tersebut dilihat singkat, namun ia bukanlah suatu tugas yang mudah untuk MacMichael mendapatkan tersebut.

Kuatkuasa Perlembagaan Malayan Union

Dalam menjalankan bidang kuasa yang diserahkan kepadanya oleh perjanjian ini, Kerajaan British telah membuat peruntukan bagi mentadbir Tanah Melayu dalam Perintah-dalam-Majlis Mesyuarat Kesatuan Tanah Melayu, 1946 dan dalam arahan Diraja bertarikh 27 Mac 1946. Ia dikenali sebagai perlembagaan Malayan Union.²³ Perlembagaan Malayan Union mempunyai 27 fasal. Antara beberapa perkara penting yang digariskan dalam Perlembagaan Malayan Union ialah membentuk sebuah kesatuan. Ia akan menggabungkan kesembilan buah negeri Melayu termasuklah Pulau Pinang dan Melaka dalam satu unit pentadbiran.²⁴ Manakala, Singapura pula akan diasingkan kerana kepentingannya sebagai sebuah pelabuhan bebas.²⁵ Seterusnya, Baginda Ratu England akan melantik seorang Gabenor British untuk mengetuai Malayan Union yang berpusat di Singapura. Sebagai ketua kerajaan, kuasa eksekutif dan perundangan berada di tangannya. Dalam menjalankan kuasa eksekutif

²² Ibid.

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²⁴ Malayan Union and Singapore, *Summary of Proposed Constitutional Arrangements*, Secretary of State for Colonies to Parliament by Command of His Majesty, London, 1946, hlm. 1-10.

²⁵ *Warta Negara*, 24 Januari 1946.

misalnya, Gabenor akan dinasihati oleh Majlis Eksekutif yang terdiri daripada Ketua Setiausaha, Peguam Negara, Setiausaha Kewangan dan tujuh orang ahli yang akan dilantik oleh Gabenor. Manakala dalam menjalankan kuasa perundangan pula, Gabenor akan dinasihati oleh Majlis Perundangan yang terdiri daripada Gabenor sebagai Yang Dipertua, ex-officio, ahli rasmi dan ahli tidak rasmi yang dilantik Gabenor atas arahan raja Britain.²⁶

Di bawah Malayan Union, institusi raja dikekalkan. Namun hampir keseluruhan kuasa baginda dilucutkan. Kedudukannya sebagai ketua negeri akan dikekalkan dengan simbol-simbol luaran seperti takhta dan istana. Baginda dibantu oleh sebuah majlis penasihat. Sebagai Yang Dipertua, baginda boleh melantik ahli majlis namun perlu mendapat pengesahan Gabenor terlebih dahulu. Majlis ini diberi kuasa yang terhad iaitu hanya dalam perkara yang berkaitan dengan Islam dan adat Melayu. Baginda juga tidak dibenarkan memungut zakat atau mengenakan apa-apa cukai. Di peringkat pusat pula, baginda tidak menjadi ahli bagi majlis eksekutif dan legislatif. Baginda sekadar menjadi ahli dalam Majlis Raja-raja. Majlis ini dipengerusikan oleh Gabenor dan ahli-ahlinya ialah Raja-raja Melayu serta ahli ex-officio. Majlis ini juga tidak mempunyai kuasa eksekutif dan perundangan. Ia hanya sebuah badan perundingan. Fungsi utamanya ialah membincangkan undang-undang berkaitan Islam dan menasihati Gabenor mengenai perkara-perkara yang dirujuk kepada majlis.²⁷

Dari segi kewarganegaraan pula, semua orang yang lahir di Tanah Melayu dan Singapura tanpa mengira bangsa dan keturunan serta imigran yang bermastautin di Tanah

²⁶ Ahmad Kamal Ariffin Mohd Rus, "Perlembagaan Malayan Union dan Perlembagaan 1948: Suatu Analisis dalam *Kumpulan Kertas Kerja Seminar 60 Tahun Penubuhan Persekutuan Tanah Melayu*, Kuala Lumpur: Arkib Negara Malaysia, 2009, hlm. 50.

²⁷ Ibid., hlm. 51.

Melayu atau Singapura selama 10 daripada 15 tahun, sebelum Februari 1942 layak mendapat kewarganegaraan Malayan Union.²⁸

Namun begitu, tidak semua perlembagaan Malayan Union ini dilaksanakan. Hanya sebahagian daripada peruntukkan perlembagaan ini telah dikuatkuasa pada 1 April 1946 manakala sebahagian peruntukkan lagi tidak pernah dikuatkuasakan langsung. Malah, terdapat juga peruntukan sementara yang dikuasakan bagi keperluan sementara. Oleh itu, dapat dirumuskan bahawa perlembagaan Malayan Union ini mempunyai tiga jenis peruntukan. Pertama, peruntukan-peruntukan kekal yang dikuatkuasakan. Kedua, peruntukan-peruntukan kekal yang tidak pernah dikuatkuasakan. Ketiga, peruntukan-peruntukan sementara yang dikuatkuasakan.

Antara peruntukan-peruntukan kekal yang telah dilaksanakan adalah berkenaan dengan penubuhan sebuah kesatuan yang terdiri daripada Negeri-negeri Melayu dan Negeri-negeri Selat iaitu Melaka dan Pulau Pinang. Ia ditadbir oleh seorang Gabenor yang dilantik kerajaan British. Malah, kuasa pengampunan di seluruh Malayan Union juga terletak di tangan Gabenor. Selain itu, terdapat juga peruntukan mengenai pelantikan Ketua Hakim Mahkamah Agung bagi Malayan Union oleh Baginda King atau Gabenor atas arahan Baginda King. Begitu juga pelantikan hakim-hakim dengan cara yang sama seperti pelantikan Ketua Hakim atau dengan cara lain sebagaimana yang diperuntukkan sama ada dengan peraturan yang dibuat oleh Gabenor atau dengan undang-undang yang dibuat dibawah perintah Baginda King. Selain itu, perlembagaan Malayan Union juga memberi kuasa penuh kepada Baginda King untuk membuat undang-undang melalui perintah-dalam-Majlis demi

²⁸ Ramlah Adam, *Kemelut Politik Semenanjung Tanah Melayu*, Kuala Lumpur: Penerbit Universiti Malaya, 1998, hlm. 211.

menjaga keamanan dan ketenteraman pemerintahan Kesatuan. Kesemua ini merupakan peruntukan-peruntukan kekal yang telah berkuatkuasa.²⁹

Selain peruntukan kekal yang dikuatkuasakan, terdapat juga peruntukan-peruntukan kekal yang tidak dikuatkuasakan. Menurut A.J Stockwell, '*...vital provision like citizenship, the Executive and Legislative Councils, the State and Settlement Councils, the Council of Sultans, the Sultans' State Advisory Council were never implemented. The Malayan Union Citizenship Order in Council was deferred (indefinitely as it turned out) and only the Royale Instruction came into operation on 1 April 1946*'.³⁰

Antara lain faktor penting mengapa peruntukan Malayan Union tidak dilaksanakan ialah kerana perlembagaan tersebut mendapat tentangan daripada orang Melayu. Kertas Putih yang mengandungi butiran terperinci mengenai Malayan Union telah diisytiharkan pada 22 Januari 1946. Kertas putih ini mencetuskan tentangan daripada orang Melayu. Mereka tidak berpuas hati terhadap kerakyatan yang longgar diberikan kepada orang asing dan hilangnya kuasa Raja-raja Melayu. Penentangan tersebut menggambarkan adanya kepincangan dalam rancangan Malayan Union. Akhirnya kerajaan Britain bersetuju untuk mengadakan perundingan bagi mempertimbangkan seluruh usul yang terkandung dalam Perlembagaan Malayan Union. Setelah hampir tiga bulan pentadbiran Malayan Union dilaksanakan, sebuah Jawatankuasa Kerja yang terdiri daripada wakil-wakil pihak British, Raja-Raja Melayu dan wakil-wakil Pertubuhan Kebangsaan Melayu Bersatu (UMNO) telah dibentuk pada 25 Julai 1946. Ia bertujuan menyelesaikan krisis perlembagaan yang bertambah tegang dan merangka satu Perlembagaan baharu yang bersesuaian dengan tuntutan politik oleh orang Melayu dan kepentingan pihak British di Tanah Melayu.

²⁹ Gan Chee Keong, "Fundamental Liberties and Remedies in Malaysia: A Study of the Historical Perspective in the Making of Federal Constitution 1957", dalam *JUUM*, 2016, hlm. 6.

³⁰ A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, hlm. 77.

Selain itu, masalah kekurangan kakitangan juga menyebabkan sebahagian peruntukan dalam perlembagaan Malayan Union tidak dapat dilaksanakan. Walaupun dikatakan jumlah pegawai terlalu ramai, namun rata-rata pegawai yang ada kurang berpengalaman.³¹ Menurut satu laporan awam, ‘...you can have no conception how weak was the government organization; lacking in equipment, training personnel and health’.³² Ketiadaan kakitangan yang berpengalaman ini menyebabkan Perlembagaan Malayan Union tidak dapat dilaksanakan sepenuhnya.

Memandangkan sebahagian peruntukan kekal Malayan Union tidak dapat dilaksanakan, namun untuk memastikan pentadbiran Malayan Union dapat dilaksanakan beberapa peruntukan sementara telah diperkenalkan. Antara peruntukan-peruntukan sementara yang dikuatkuasakan adalah berkenaan dengan penubuhan sebuah Majlis Penasihat bagi Malayan Union. Majlis ini terdiri daripada Setiausaha, Peguam Negara, Setiausaha Kewangan dan ahli-ahli lain sebagaimana yang dilantik oleh Gabenor. Sementara menunggu penubuhan Majlis Undangan, Gabenor mempunyai kuasa untuk membuat undang-undang demi menjaga keamanan dan ketenteraman pemerintahan Malayan Union, tetapi sebelum berbuat demikian Gabenor wajib berunding dengan Majlis Penasihat terlebih dahulu. Walau bagaimanapun Gabenor tidak semestinya menerima pakai nasihat yang diberikan dalam Majlis tersebut.³³ Selain itu, dalam menjalankan kuasa keseluruhan pemerintahan, beliau juga tidak perlu mendapatkan nasihat daripada majlis tersebut.³⁴ Memandangkan dalam Malayan Union tidak ada kerajaan Negeri, maka pegawai kanan Kerajaan di tiap-tiap

³¹ Menurut Stockwell, ‘...the clumsiness of the system was mainly due to a shortage of experienced officers, and although the government had underestimated the number who would survive Japanese internment, the management of the Malayan Union required a larger number of experienced European staff than was available’. Lihat A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, hlm. 78.

³² Ibid.

³³ Gan Chee Keong, “Fundamental Liberties and Remedies in Malaysia: A Study of the Historical Perspective in the Making of Federal Constitution 1957”, hlm. 7.

³⁴ Abdul Majid Abdul Latif & Ridzuan Omar (terj.), *Mengenal Perlembagaan Malaysia oleh Tun Muhammad Suffian Bin Hashim*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 1987, hlm. 12-13.

negeri adalah pegawai tanah jajahan British yang dikenali sebagai Pesuruhjaya-Residen. Selain itu, tiada lagi jawatan menteri besar atau Setiausaha Kerajaan dan juga tiada lagi Badan Perundangan Negeri. Majlis Penasihat yang diketuai oleh Sultan di negeri Baginda hanya mempunyai kuasa untuk membuat undang-undang mengenai hal ehwal agama Islam sahaja.³⁵

Dato Onn sendiri sebenarnya kurang senang dengan perjalanan pentadbiran Malayan Union. Menurutnya,

“...your Resident commissioner and myself each go our separate way. I am left completely in the dark as to what is happening in the State of Johore. Plans, schemes every darned thing of any importance is secret to me. I hear of conferences but I am left guessing as to what schemes may have been hatched and what plans are to be put into effect without the Malays have a say in the matter. The whole country is ruled by one man”.³⁶

Persekutuan 1948

Perlembagaan Persekutuan 1948 terhasil daripada perjanjian yang ditandatangani antara Raja-raja Melayu dengan Sir Gerard Edward James Gent sebagai wakil Raja Britain pada 21 Januari 1948 dan dikuatkuasakan pada 1 Februari 1948. Berikutan itu satu siri perjanjian negeri turut ditandatangani secara berasingan antara pihak British dengan kesembilan orang Raja Melayu. Perlembagaan Persekutuan 1948 memperuntukkan gabungan kesembilan buah negeri Melayu bersama Pulau Pinang dan Melaka bagi membentuk sebuah persekutuan yang dikenali sebagai Persekutuan Tanah Melayu.³⁷ Serentak itu, perjanjian negeri juga secara berasingan memperuntukkan para baginda supaya mengadakan satu perlembagaan bertulis bagi pemerintahan negeri baginda.³⁸ Bagi Pulau Pinang dan Melaka satu perintah dalam

³⁵ Ibid., hlm. 14.

³⁶ A.J. Stockwell, *British Policy and Malay Politics during the Malayan Union Experiment 1942-1948*, hlm. 83.

³⁷ *The Law of The Constitution of Selangor, First Part*, Kuala Lumpur: Percetakan Kerajaan, hlm. 1.

³⁸ Ibid.

Majlis Perundangan Persekutuan Tanah Melayu 1948 telah diisytiharkan memperuntukkan perlembagaan bertulis bagi kedua-dua negeri tersebut.³⁹

Bagi pihak orang Melayu perjanjian Persekutuan 1948 merupakan satu kemenangan besar kerana ia mengembalikan hak pertuanan Melayu; dalam erti kata Tanah Melayu merupakan negeri bertuan. Oleh itu, pihak British tidak boleh sewenangnyanya menentukan apa yang ia kehendaki dan apa yang perlu dibuang. Bagi persepsi Raja-raja Melayu pula perjanjian tersebut telah mengembalikan kedaulatan baginda. Keyakinan baginda dalam soal tersebut diperkukuhkan dengan kandungan Fasal 155 Perjanjian Persekutuan, '*save as expressed herein, this agreement shall not affect the sovereignty and jurisdiction of their Highnesses the Rulers in their several States.*'⁴⁰ Isunya di sini, adakah British bersedia untuk pergi terlalu jauh sehinggakan terpaksa berundur daripada dasar yang telah dirancang sebegitu teliti. Ataupun British sebenarnya cuba mengambil pendekatan yang lebih sederhana iaitu 'desakan dalam rundingan'. Apa yang penting, bagi pihak British matlamat akhirnya mesti dicapai.

Berdasarkan Perlembagaan Persekutuan 1948, ketua kerajaan Persekutuan Tanah Melayu ialah Pesuruhjaya Tinggi. Dia diperuntukan kuasa eksekutif yang sangat luas.⁴¹ Beliau akan dibantu oleh Majlis Eksekutif dan Majlis Perundangan Pusat. Majlis Eksekutif terdiri daripada 17 ahli rasmi dan tidak rasmi. Manakala Majlis Perundangan Pusat terdiri daripada Pesuruhjaya Tinggi sebagai Yang Dipertua, Ketua Setiausaha, Peguam Negara dan Setiausaha Kewangan. Ahli rasmi yang lain termasuklah Sembilan Ketua Menteri dari Negeri-negeri Melayu dan sebelas orang pegawai kerajaan yang dilantik sebagai Pesuruhjaya. Ahli-ahli tidak rasmi pula adalah seramai 50 orang yang dilantik oleh Pesuruhjaya Tinggi

³⁹ Muhamad Kamil Awang, *Sultan dan Perlembagaan*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 2001, hlm. 80.

⁴⁰ J.de V. Allen, A.J. Stockwell & L.R. Wright, *A Collection of Treaties and Other Documents Affecting the State of Malaysia, 1761-1963*, Volume II, New York: Oceana Publication, hlm. 196.

⁴¹ The Federation of Malaya Agreement, Jadual Kedua.

untuk mewakili kategori seperti berikut; enam wakil buruh; enam wakil peladang getah dan kelapa sawit (tiga syarikat awam dan tiga pekebun kecil); empat wakil perlombongan; enam wakil perniagaan; enam wakil pertanian dan penternakan; enam wakil professional, pendidikan dan kebudayaan; sembilan wakil negeri-negeri Melayu; dua wakil Melaka dan Pulau Pinang; dua wakil Cina dan seorang wakil daripada India, Ceylon dan Eurasian.⁴² Agihan ini membolehkan orang Melayu memperoleh jumlah keseluruhan 31 kerusi iaitu 22 tidak rasmi dan Sembilan Ketua Menteri menjadikan mereka kaum minoriti yang terbesar daripada 75 orang ahli Majlis.

Dari sudut bidang kuasa, Majlis Perundangan Persekutuan yang diketuai oleh Pesuruhjaya Tinggi serta majoriti ahlinya orang bukan Melayu diperuntukan dengan kuasa yang luas. Berdasarkan Jadual Dua Perjanjian Persekutuan 1948, jelas menunjukkan bidang kuasa Majlis Perundangan Persekutuan mencakupi hal ehwal luar, ketenteraman awam, kehakiman, perdagangan, komunikasi, percukaian selain cukai-cukai kecil.⁴³ Dari satu segi, bidang kuasa Majlis Perundangan Persekutuan yang begitu luas dapat diimbangi dengan peruntukan kuasa yang diberikan kepada Raja-raja Melayu. Fasal 54 Perjanjian Persekutuan 1948, jelas menyatakan bahawa tiada rang undang-undang yang akan menjadi undang-undang sehingga mendapat perkenan Raja-raja Melayu, yakni Majlis Raja-raja. Perkenan tersebut mestilah dizahirkan dengan persetujuan sekurang-kurangnya dua orang Raja Melayu melalui cop mohor baginda.⁴⁴

Walau bagaimanapun, dalam fasal yang sama turut menyatakan bahawa rang undang-undang yang akan dijadikan undang-undang juga perlulah mendapat perkenan Pesuruhjaya Tinggi. Sehubungan itu, klausa menggubal bagi undang-undang di peringkat pusat menyebut, *“enacted by the High Commissioner of the Federation of Malaya and their Hignesses the*

⁴² Muhamad Kamil Awang, *Sultan dan Perlembagaan*, hlm. 80.

⁴³ The Federation of Malaya Agreement, Jadual Kedua.

⁴⁴ Ahmad Ibrahim, “Legislation in The Malay States”, dalam *The Malayan Law Journal Supplement*, 2, 1977, hlm. 1xix.

Rulers of the Malay States with the advice and consent of legislative council".⁴⁵ Dengan kata lain, meskipun kuasa perundangan Raja-raja Melayu telah dikembalikan, namun berdasarkan Perlembagaan Persekutuan 1948, kuasa itu sebenarnya dikongsi bersama dengan pesuruhjaya tinggi. Hak perundangan sedemikian merupakan satu perkara baru dan tidak pernah berlaku di era sebelum perang.

Jika dianalisis dengan mendalam, hak perundangan Pesuruhjaya Tinggi berbanding Raja-raja Melayu dilihat lebih anjal. Maknanya, jika terdapat rang undang-undang yang tidak dipersetujui oleh para baginda, Pesuruhjaya Tinggi boleh menggunakan sekurang-kurangnya duacara sekiranya mahukan rang undang-undang itu dilaksanakan. Pertama, Pesuruhjaya Tinggi boleh menggunakan fasal 8 Perjanjian Persekutuan 1948. Menurut fasal ini, Raja-raja Melayu hendaklah menerima nasihat Pesuruhjaya Tinggi dalam semua perkara berhubung dengan kerajaan persekutuan kecuali dalam perkara yang menyentuh agama islam dan adat istiadat Melayu. Kedua, melalui kuasa rizab yang diperuntukkan kepada Pesuruhjaya Tinggi. Fasal 52 menyebut, sekiranya terdapat rang undang-undang atau usul yang tidak diluluskan oleh Majlis Perundangan Persekutuan tetapi dirasakan penting oleh Pesuruhjaya Tinggi demi kepentingan dan kebaikan awam, maka Pesuruhjaya Tinggi boleh melaksanakan rang undang-undang atau usul tersebut seolah-olah ia telah diluluskan oleh Majlis Perundangan Persekutuan.

Majlis Raja-raja pula diwujudkan melalui peruntukan fasal 67 Perjanjian Persekutuan 1948. Majlis ini dipengerusikan oleh salah seorang daripada Raja-raja Melayu. Keanggotaannya pula terdiri daripada kesemua Sembilan Raja Melayu.⁴⁶ Selain mempertimbangkan dan memberi penekanan kepada rang undang-undang Persekutuan, Majlis Raja-raja juga mempertimbangkan perkara berkaitan skim gaji baru dan penyusunan

⁴⁵ Ibid.

⁴⁶ Abdul Aziz Bari, *Majlis Raja-raja: Kedudukan dan Peranan dalam Perlembagaan Malaysia*, Kuala Lumpur: Dewan Bahasa dan Pustaka, 2002, hlm. 25.

semula perkhidmatan dan jabatan kerajaan Persekutuan. Adalah menjadi tanggungjawab Pesuruhjaya Tinggi untuk menjelaskan dasar kerajaan Persekutuan yang berkaitan dengan negeri-negeri Melayu kepada Raja-raja dan memastikan bahawa Raja-raja diberi hak untuk memberi pandangan baginda terhadap perkara-perkara yang dibentangkan. Di bawah peruntukan khas mengenai imigrasi yang menjadi bidang kuasa kerajaan Persekutuan, Pesuruhjaya Tinggi dikehendaki meminta pendapat Majlis Raja-raja dari semasa ke semasa khususnya jika terdapat sebarang perubahan dasar yang besar. Sekiranya Raja-raja Melayu membantah perubahan dasar mengenai migrasi, ia harus dirujuk kepada Majlis Perundangan Persekutuan untuk kelulusan atau penolakan. Dalam kes ini hanya ahli tidak rasmi sahaja yang boleh mengundi meskipun semua ahli boleh memberi pandangan.⁴⁷

Jika didasarkan kepada bidang kuasa perundangan negeri, nyata bahawa hasrat perancangan British yang tidak mahu Raja-raja Melayu memiliki hak perundangan yang luas sememangnya jelas. Perlembagaan negeri yang diwujudkan mestilah selari dan tidak boleh bertentangan dengan Perlembagaan Persekutuan. Majlis Negeri juga mempunyai bidang kuasa yang terhad. Bidang kuasa perundangan negeri hanya meliputi perkara-perkara yang ditinggalkan oleh Jadual Kedua Perlembagaan Persekutuan 1948. Dari perspektif perlembagaan negeri, walaupun baginda diakui sebagai sumber kuasa yang sah, namun disebabkan Majlis Negeri mempunyai bidang kuasa yang terhad, peruntukan itu tidak mungkin dapat meletakkan Raja-raja Melayu pada kedudukan yang sama seperti di era sebelum Perang Dunia Kedua. Selain perkara-perkara yang ditinggalkan oleh Jadual Kedua Perlembagaan Persekutuan 1948, Majlis Negeri juga boleh membuat undang-undang berkaitan agama Islam dan adat Melayu. Walau bagaimanapun, sekiranya terdapat undang-undang yang diluluskan oleh majlis bertentangan dengan undang-undang Persekutuan, maka undang-undang itu terbatal setakat mana ia bertentangan.

⁴⁷ Muhamad Kamil Awang, *Sultan dan Perlembagaan*, hlm. 82.

Dari sudut hak kewarganegaraan dapat disimpulkan bahawa orang Melayu telah pun bertolak ansur sejak tahun 1948 lagi. Walaupun syarat kewarganegaraan telah diperketatkan, namun Perlembagaan Persekutuan 1948 tetap secara implisit menyatakan bahawa Tanah Melayu melalui 1 Februari 1948, bukanlah tanah untuk orang Melayu semata-mata.⁴⁸

Kesimpulan

Keberhasilan MacMichael mendapatkan tandatangan Raja-raja Melayu dalam tempoh tiga bulan, dapat disifatkan bukan suatu perjalanan yang mudah. Persiapan rapi yang disediakan bagi MacMichael menghadapi Raja-raja Melayu, membuktikan bahawa British sudah dapat mengesan bahawa mereka akan berhadapan reaksi sukar. Reaksi Yam Tuan Besar Negeri Sembilan, Sultan Perak, Sultan Kedah dan Raja Perli menunjukkan bahawa Raja-raja Melayu sememangnya amat sensitif dan sedar kesan perjanjian tersebut terhadap baginda dan orang

⁴⁸ Dalam Bahagian 12 Perjanjian Persekutuan 1948, telah disebut tentang pembentukan dan pengesahan Rakyat Raja dan Rakyat British yang berlaku secara kuatkuasa Undang-undang. Mengikut fasal 124 (1) mereka yang menjadi rakyat dalam kategori ini adalah:

- a) Mana-mana rakyat Yang Maha Mulia Raja-raja bagi mana-mana Negeri Melayu sama ada diperanakkan dahulu atau pada atau kemudian daripada hari yang ditetapkan;
- b) Mana-mana rakyat British yang dilahirkan dalam salah satu dari Negeri Selat sama ada dahulu, pada atau kemudian daripada hari yang ditetapkan itu yang tinggal dalam mana-mana negeri yang terkandung dalam Persekutuan;
- c) Mana-mana rakyat British yang telah diperanakkan dahulu, pada atau kemudian daripada hari yang ditetapkan dalam mana-mana negeri yang terkandung dalam Persekutuan;
 - (i) Jika bapanya diperanakkan di mana-mana negeri yang sekarang ini terkandung dalam Persekutuan;
 - (ii) Jika pada hari yang diperanakkan itu bapanya telah tinggal tetap dalam negeri tersebut;
- d) Mana-mana orang yang diperanakkan dahulu, pada atau kemudian daripada hari yang ditetapkan itu dalam mana-mana negeri yang sekarang akan terkandung dalam Persekutuan dan bertabiat bercakap Bahasa Melayu dan mengikut adat resam Melayu;

3 (i) dalam fasa kecil (i) perkataan “Rakyat Yang Maha Mulia bagi mana-mana Negeri Melayu” itu maknanya mana-mana orang yang:

- i) Termasuk dalam bilangan kaum asli yang tinggal di dalam negeri itu; atau
 - ii) Menjadi orang Melayu yang diperanakkan di dalam negeri itu atau diperanakkan di luar negeri-negeri Melayu jika bapa orang itu menjadi rakyat raja negeri itu pada ketika orang itu diperanakkan; atau
 - iii) Telah diaku menjadi ‘naturalised’ rakyat raja mengikut mana-mana undang-undang yang pada masa itu berjalan kuasanya.
- b) perkataan ‘Melayu’ makanya seorang yang:
- i) sudah jadi tabiinya bercakap Bahasa Melayu; dan
 - ii) mengikut agama islam; dan
 - iv) Menurut adat resam Melayu

Dipetik daripada Ramlah Adam, *Kemelut Politik Semenanjung Tanah Melayu*, hlm. 214-215.

Melayu. Sementara itu, penentangan orang Melayu dan kekurangan pegawai yang berpengalaman merupakan faktor mengapa sebahagian Peruntukan Kekal perlembagaan Malayan Union tidak dapat dilaksanakan. Dalam tempoh menunggu penyelesaian dicapai, beberapa Peruntukan Sementara telah diperkenal bagi memastikan jentera pentadbiran Malayan Union dapat dilaksanakan. Meskipun Malayan Union gagal, namun perlembagaan Persekutuan 1948 sebenarnya memberi ruang kepada British mencapai matlamat asas mereka. Apa yang berlaku, pendekatan yang diambil British dilihat lebih sederhana iaitu dengan cara ‘desakan dalam rundingan’. Selain itu, dengan terbentuknya Persekutuan Tanah Melayu, sebahagian besar prerogatif Raja-raja Melayu terpaksa diserahkan kepada kerajaan pusat. Ini bermakna, kedudukan mereka seperti sebelum Perang Dunia Kedua, tidak dikembalikan sepenuhnya.

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Lampiran 1:

Report on a Mission to Malaya by Sir Harold A. MacMichael, G.C.M.G., D.S.O (October, 1945-January, 1946)

APPENDIX C

REPORT ON A MISSION TO MALAYA BY SIR HAROLD A. MACMICHAEL, G. C. M. G., D. S. O. (October, 1945-January, 1946)

Published by the Malayan Union Government Press, Kuala Lumpur, 1946.

After the defeat and surrender of Japan, I was sent as Special Representative of His Majesty's Government, in the autumn of 1945, to conclude formal Agreements with the Rulers of the nine States, which, together with the British Settlements of Penang and Malacca, cover the mainland of Malaya. My task was completed by Christmas and I returned to England in January, 1946.

2. It would be superfluous for me to preface my report with the usual synopsis of the history, geography and ethnography of the country. The informational background is amply provided in numerous textbooks, reports, etc., all readily accessible.

It is enough to say that at various dates in the nineteenth century Agreements, similar to one another in general character but varying in form and content, had been made between the British Government and the several States. Thus on the 20th of January, 1874, an "Engagement" was entered into by the Chiefs of PERAK and signed by them and the Governor of the Straits Settlements. This "Treaty of PANGKOR" was followed, in the same year, by an Agreement contained in an exchange of letters between the Governor of the Straits Settlements and the Sultan of SELANGOR and, subsequently, by Agreements with the rest of the Malay States. None of the instruments conceded to His Majesty's Government direct rights of jurisdiction, but a clause was in every case included whereby a British Resident or Adviser was to be accredited to the court of the local Ruler and his advice sought and acted upon in all matters other than those touching Malay religion and custom.

3. In 1895 four of the States, PERAK, SELANGOR, NEGRI SEMBILAN and PAHANG, adopted a form of "Federation," and a Federal Council was constituted in 1909. The remaining five States, JOHORE, KEDAH, PERLIS, KELANTAN and TRENGGANU, have remained "Unfederated."

The resultant state of affairs, though effective in the long run and attended by remarkable advances in social and economic progress during the nineteenth and twentieth centuries, rendered the process of administration somewhat cumbrous and complex, and His Majesty's Government had become convinced that some measure of simplification was required. Moreover, it was clear that, although the special position of the indigenous Malays needed to be safeguarded, reforms were overdue in the system of representa-

tion in order to permit the claims of other races, Chinese and Indian for the most part, who even in the Peninsula and apart from Singapore, had come to form at least half the total population, to receive reasonable satisfaction.

4. Plans were worked out in London during the war-years for the future of Malaya as part of the general scheme of reconstruction which would be called for when peace returned to the world, and these included two major changes, first, the creation of a Malayan Union to comprise the whole of the Peninsula, including both the nine Malay States and the British Settlements of PENANG and MALACCA-but not necessarily the island of Singapore-and second, the creation of common citizenship, not restricted to Malays only but extended to cover all who were deemed to be qualified by birth or residence.

5. If these reforms were to be effected, it was necessary that His Majesty's Government should acquire full powers of jurisdiction. But the pre-requisite to this was the replacement of the heterogeneous Agreements of the past by a series of simpler enabling measures couched, so far as might be appropriate, in identic terms. I was entrusted by His Majesty's Government with this task in September, 1945.

6. The situation was slightly complicated by the fact that, whereas in the case of four States (JOHORE, PERAK, NEGRI SEMBILAN and PAHANG) the Sultans who had been in power before the Japanese invasion of the Peninsula at the end of 1941 were still in being and ruling their people at the time of our reoccupation in the autumn of 1945, there had been changes elsewhere.

In SELANGOR the Japanese had deposed the rightful Ruler on account of his pro-British attitude and installed his eldest brother, MUSA EDDIN, who for reasons of character had previously been debarred from the succession. This man was removed from the scene in September 1945.

In KEDAH the present Sultan had been regent since 1938 owing to the illness of the Sultan; the Sultan had died in 1943 and the Japanese had acquiesced in the succession of the Regent, though handing over the four northern States of KEDAH, PERLIS, KELANTAN and TRENGGANU to Siam. The succession of the Regent had not been recognised by His Majesty's Government.

In PERLIS the Sultan had died in 1943 and the Japanese had installed as his successor his half-brother HAMZAH. They had ignored the claims of SYED PUTERA, who had been duly nominated by the State Council in 1938 as successor. HAMZAH had, however, voluntarily resigned office in a formal letter addressed to the Gen-

eral Officer commanding the British Troops as soon as the country was reoccupied, and SYED PUTERA remained available with an unimpeachable record.

In KELANTAN the Sultan had died in 1944 and the Siamese, with Japanese consent, had allowed the RAJAH KELANTAN, the heir-apparent, to take his place.

In TRENGGANU the Sultan had died in 1942, and his eldest son, ALI, whose discreditable character and conduct rendered him equally objectionable to His Majesty's Government and to the people of TRENGGANU, had been appointed as Sultan by the Japanese, and was still in office. On the other hand, TENGKU PADUKA, the younger brother of the late Sultan, was available and favoured by the people of TRENGGANU. (See paragraph 23 below.)

7. Before my arrival in Malaya and immediately after the Japanese collapse, Brigadier H. C. Willan, M. C. of the Colonial Legal Service, had visited each of the nine States in his capacity as Deputy Chief Civil Affairs Officer in the newly formed British Military Administration and interviewed the various holders of office and others. His report was of great value in that it provided up-to-date information and advice concerning the personalities whose future was at stake, their records during the Japanese period, and possible successors or claimants to office. It made clear that in every case the Malay Rulers who had been recognised as such by His Majesty's Government before the debacle had been guiltless of any conduct which could be regarded as criminally blameworthy and had in fact remained basically faithful to the British connection, though perforce compelled by the fact of our own withdrawal to participate in an uneasy and superficial collaboration with their conquerors in such minor matters of administration as were left to them.

8. My own arrival was timed to follow at once upon the formal statement to be made in Parliament by the Secretary of State for the Colonies announcing the policy outlined above. This statement was made in the House of Commons on October 10th and I landed at PORT SWETTENHAM on the morning of October 11th. I had paid a preliminary visit to Ceylon and India in May and June, while the Japanese were still in effective occupation of Malaya, but this had been merely for the purpose of establishing contacts with the military and civil authorities and learning something of the background, so far as it was then ascertainable, at closer quarters.

9. The statement made by the Secretary of State on October 10th in reply to a request for information regarding future Malayan policy was in the following terms (I quote Hansard):

"His Majesty's Government have given careful consideration to the future of Malaya and the need to promote the sense of unity and common citizenship which will develop the country's strength and capacity in due course for self-government within the British Commonwealth. Our policy will call for a constitutional union of Malaya and for the institution of a Malayan citizenship which will give equal citizenship rights to those who can claim Malaya to be their homeland. For these purposes fresh agreements will need to be arranged with the Malay State Rulers, and fresh constitutional measures for the Straits Settlements. I should make it clear that the British character and British citizenship attaching to all the present Settlements will not be affected by the constitutional measures we have in mind.

"The Malayan Union will consist of the nine States in the Malay Peninsula and of the two British Settlements of Penang and Malacca. The Settlement of Singapore at this stage requires separate constitutional treatment and in view of its special economic and other interests provision will be made for it to be constituted as a separate Colony. His Majesty's Government are, however, well aware of the many ties between Singapore and the mainland, and that these ties may well work towards ultimate union. This will be a matter for the Governments of the Malayan Union and Singapore to consider in due course.

"The people of the Settlement of Penang (with Province Wellesley) and Malacca will lose none of their rights as British citizens, and it is as British Settlements, with their own appropriate institutions of local government no less than those in the States, that Penang and Malacca will form part of the Malayan Union. His Majesty's Government have carefully considered the new constitutional measures necessary for the political, economic and social advancement of Malaya, and have decided that fresh Agreements with the several Malay Rulers need first to be arranged which will enable His Majesty to possess and exercise full jurisdiction in the Malay States. Sir Harold MacMichael has accordingly been appointed to visit Malaya as a Special Representative of His Majesty's Government to arrange Agreements with the Rulers for this purpose. When His Majesty possesses jurisdiction it is intended by Order in Council to constitute the Malayan Union.

"There will also be created a Malayan Union citizenship, for which the qualifications will be birth in Malaya or a suitable period of residence. They will be citizens of Malaya, with all the rights and obligations which that term implies. No one must rely upon past privilege, or regard Malaya simply as a source of material wealth. While it is to the advantage of all the world and not only Malaya that the production of her mineral and

agricultural resources should be restored and developed by industry and research, it is right that the Malayan people should be assured of their full share in the rewards of their industry and should be able to feel the country's wealth reflected in their own standard of life."

10. My own terms of reference as handed to me on my departure from England were as follows:

Colonial Office,
Downing Street, S. W. I.

"1. You will visit Malaya at a date to be agreed by the Supreme Allied Commander, South East Asia, and invite each Malay Ruler's co-operation in the establishing of a fresh constitutional organisation of Malaya which has been approved by His Majesty's Government and communicated to you and which is intended to ensure and facilitate the progress of the people of the country towards unity and ultimate self-government within the British Empire.

"2. In furtherance of this object you are authorised as Special Representative of His Majesty's Government to conclude with each Ruler on behalf of His Majesty's Government a formal Agreement by which he will cede full jurisdiction to His Majesty in his State.

"3. In any Malay State where the Ruler recognised by His Majesty's Government before the outbreak of war with Japan is either no longer in Office or has so compromised himself in relations with the enemy as to be no longer *prima facie* worthy of being recognised as Ruler by His Majesty's Government, you should telegraph to the Secretary of State for the Colonies through the Supreme Allied Commander the name and credentials of the Malay personage whom you recommend as competent and responsible to undertake such a commitment in respect of the State concerned.

"4. In carrying out your mission to Malaya your movements should be the subject of consultation and agreement between yourself and the military authorities responsible for the Military Administration, and you should conform with such requests as the latter may at any time find it necessary to make to you in the interests of operational or security requirements.

"5. The Supreme Allied Commander, South East Asia, has instructions that you should be afforded all possible assistance and facilities which you may need from the military authorities in fulfilment of your mission."

(Signed) G. H. HALL.

11. I would take this opportunity to acknowledge the very generous spirit in which the final paragraph of this document was carried out by the Supreme Allied Commander, Admiral Lord Louis Mountbatten, and by all under his command, throughout the period of my mission, and to express my gratitude to them.

12. As regards the third paragraph of my instructions, a minor modification was subsequently agreed to telegraphically by the Secretary of State in order to obviate the delays and difficulties which would have been caused by periodic reference at a time when signal communications were somewhat congested and uncertain. The position obtaining in the various States in October - sometimes simple, sometimes complex — has already been outlined but had not been known at the time when my terms of reference had been drawn up.

When the general position had become clearer and been explained, it was agreed that I should be empowered, in the four cases where the pre-war Rulers were no longer alive, to open discussions with the individuals recommended as competent and responsible to undertake formal commitments as Rulers, to recognise them on behalf of His Majesty's Government, and to sign Agreements with them, without the risks of delay and complication attendant upon interim reference.

13. On my arrival in Malaya, where KUALA LUMPUR became my headquarters, I made arrangements to visit each State in turn, irrespective of whether it was "Federated" or "Unfederated," beginning with JOHORE. The procedure followed was similar but not identical in all cases and depended largely upon the wishes of the individual Rulers. Usually the first interview took place at the Ruler's palace and was between myself, on the one hand, accompanied by Brigadier A. T. Newbould of the Malayan Civil Service (attached to the British Military Administration), who had joined me at Kuala Lumpur, and Mr. H. T. Bourdillon of the Colonial Office who had come out with me from England, and the Sultan himself on the other. As a rule, but not invariably, the Sultan was attended on this occasion by one or two of his chief advisers. The conversation was in English or Malay according to the choice of the Sultan, and was more often than not in the former. When Malay was used Brigadier Newbould acted as interpreter for me. I opened the proceedings in all cases by explaining the object of my mission and my terms of reference and, thereafter, in general terms, but always with complete frankness, the salient features and justification of the policy which had been adopted by His Majesty's Government and which it was proposed to carry out after the grant of jurisdiction, namely, the creation of a Malayan

APPENDIX C

Union and the grant of common citizenship to all who had made Malaya their real home. My own task, I continued, was to seek the whole-hearted co-operation of the Rulers with His Majesty's Government in effecting these reforms. I also described the constitutional frame-work which would be set up in the Union—a Governor, representing His Majesty the King, an Executive Council, a Legislative Council, State Councils presided over by the Resident Commissioners, Councils advisory to the Malay Rulers and an Advisory Council of Malay Rulers sitting with the Governor—and outlined the constitution and functions of each of these Councils. In doing so I took as my brief the Explanatory Note (attached to this Report as Appendix I) which had been approved by the Secretary of State before my departure from England and copies of which had been specially printed at Kuala Lumpur, together with the texts of the proposed Agreements, in English and Malay translation. In conclusion I handed the Sultan copies of these documents for reading and discussion. In some cases the Sultan preferred to digest the documents at leisure and discuss them with his advisers before expressing any considered views or asking more than a few questions in passing. Whichever course was chosen, I agreed to it, and indeed I urged consistently the need for the fullest and most careful measure of deliberation. To this end I offered the services of Brigadier Newbould, whose long service in Malaya had given him not only an intimate knowledge of its people and language but the friendship and trust of all, for any discussions with such Malay notables as the Sultan might wish to consult. This method was productive of excellent results and Brigadier Newbould spent many hours in converse with leading Malays in almost every State, explaining broader principles of policy and points of detail alike in so far as they fell within the ambit of the Explanatory Note. Two or three days later a second meeting with myself took place and this was usually attended by all mentioned above. In some instances nothing remained but to sign the Agreement: in others there was some further discussion as a preliminary to signature. Notes were taken of all points of substance raised and, in addition, considered memoranda were handed to me by most of the Rulers at the close of the proceedings containing suggestions, requests, and recommendations for the consideration of the Secretary of State. These memoranda, which were forwarded to London at the first opportunity, are deserving of every consideration, a number of the broader issues raised being pertinent and well-considered. The general trend of them was, not unnaturally, the need to safeguard the native of the country against the danger of submergence by alien races, and to preserve the integrity of the States with a proper measure of administrative

decentralisation. A genuine trust in the bona fides of His Majesty's Government was obvious and universal.

Our meetings were characterised by courtesy and good temper, and without exception proceedings terminated in an atmosphere of friendliness. Only in two cases was I conscious of any preliminary undercurrent of antagonism to the proposals made. In NEGRI SEMBILAN the Ruler was evidently reluctant to commit himself at all, and it was only through the intervention of the senior Undang, the DATO KLANA OF SUNGE UJONG, that he was persuaded to signify his acceptance of the new policy. In KEDAH the strong tendency towards separatism, not to say parochialism, which has always, I understand, characterised that State and which was accentuated by the degree of latitude allowed to it by the Siamese, led the Sultan to a strong protest which was obviously based less upon the inherent merits of the case than upon the lowering of the status of KEDAH appearing to him to be implicit in the policy but did not prevent his eventually signing on the ground that he saw no practicable alternative. With these qualifications it may fairly be said that every Ruler and every responsible Councillor whom we met left me with the impression that he was finally and genuinely convinced that the new policy was a wise and just one, calculated to serve the long-term interests of the country as a whole.

14. I return now to the narrative of events. On 16th October I travelled by way of MALACCA, where I spent a day, to Singapore and from there visited the Sultan of JOHORE, His Highness Sir IBRAHIM, at JOHORE BHARU. The Agreement was signed with the greatest friendliness on 20th October. ✓

15. I then returned to Kuala Lumpur and from there visited the rightful Sultan of Selangor, His Highness Sir HISAMUDDIN 'ALAM SHAH, now again installed at KLANG after the removal of the usurper MUSA EDDIN. The Agreement was signed on 24th October

16. NEGRI SEMBILAN, which is itself a confederation of four major and five minor States, having an exogamous tribal and matriarchal social organisation, would normally have been the next State to be tackled, but as some difficulty had arisen in the matter of the election of one of the lesser rulers, the UNDANG of JELEBU, it was necessary to defer matters awhile and I decided first to visit PAHANG on the West coast of the Peninsula. Using KUANTAN as my base I called upon the Sultan His Highness Sir ABU BAKAR RI'ATU' EDDIN, who, it may be mentioned, had narrowly escaped capture by the Japanese when co-operating with our forces in the summer of 1945, and concluded the Agreement with him at PEKAN on 2nd November.

17. The NEGRI SEMBILAN difficulty having by now been resolved in duly constitutional form, I then visited SRI MENANTI and the Agreement was eventually signed on 14th November by His Highness Sir 'ABDUL RAHMAN the YANG DI-PERTUAN BESAR, the four 'UNDANG (Lawgivers) who with him constitute the Council of State, and a lady acting as regent for the TUNKU BESAR of TAMPIN whose acquiescence was required by the terms of the old Agreement of 1895.

18. I then travelled northwards to PERAK, and making IPOH my temporary headquarters, opened negotiations with the very enlightened and sincere ruler of that State, His Highness Sir PADUKA SRI SULTAN 'ABDUL AZIZ, at KUALA KANGSAR. These were concluded and the Agreement signed on 22nd November.

19. There remained the four northern States of KEDAH, PERLIS, KELANTAN and TRENGGANU, which had been handed over in 1943 by the Japanese to the Siamese Government. Not only did special problems arise here owing to the decease of the Rulers who had been in power in 1941, but the separatist tendencies of KEDAH, already mentioned, were fortified by article 3 of the Agreement concluded with His Majesty's Government in 1923 which reads as follows:

"His Britannic Majesty will not transfer or otherwise dispose of his rights of suzerainty over the State of Kedah to another power and will not merge or combine the State of Kedah or her territories with any other State or with the Colony of the Straits Settlements without the written consent of His Highness the Sultan in Council."

The Agreement of the same year with PERLIS, contained a similar clause. In KEDAH and PERLIS, consequently, negotiations had to include the State Councils in their scope.

20. After some considerable argument the State Council of KEDAH, which attended my meetings with the Sultan, gave their written consent to the new Agreement and His Highness Sir BADLISHAH, after formal recognition of his status as Sultan, signed it on 2nd December.

21. In PERLIS, Rajah Syed PUTERA, had first to be formally elected by the State Council. This presented no difficulty as the Councillors were available and unanimity prevailed among them. Thereafter I accorded formal recognition on behalf of His Majesty's Government, and the written consent of the State Council,

only obtained after prolonged but amicable discussion on numerous points of detail, was duly recorded and the Agreement signed by His Highness on 4th December.

22. I then returned to Kuala Lumpur, paying a two days' visit to PENANG on the way, and set forth again on 12th December for KELANTAN and TRENGGANU. I reached KOTA BHARU (KELANTAN) on 14th December, travelling by rail from ALOR STAR (KEDAH) through Southern Siam, and after two days of close discussion, in which the highly progressive and experienced Councillors of this large and predominantly Malay State showed their admirable metal, the Agreement was signed by His Highness Sultan IBRAHIM. He had previously been accorded formal recognition.

23. In TRENGGANU the political atmosphere was equally refreshing but an unexpected difficulty occurred. It transpired that in 1911 this State had drawn up a constitution, clause 14 of which, translated, read: "It is not right and not lawful in any way for the Rajah to make a promise or proposal to release, or surrender, the country and its government or popular right to any other government whatever or into the power of any race, European or otherwise." This placed the Sultan, who had only recently been elected by the State Council in place of the discredited ALI (see paragraph 6 above) in a quandary. Neither he nor his Councillors felt objection in principle to signature of the proposed Agreement: in fact they welcomed it, as KELANTAN had done, but they felt grave doubt whether it would be constitutional. As His Majesty's Government have never recognised the constitution in question the difficulty was not one with which I was formally concerned, but it was, nevertheless, a real one, and by the invitation of the Sultan and his Councillors the services of Brigadier Newbould were invoked to assist in solving it. Eventually the Chief Minister, an elder of ripe wisdom and experience, summarised the case by saying that the question was really a simple one. Was TRENGGANU prepared to trust the British Government or not? The clause above cited was intended to prevent a Sultan from selling, leasing or pawning the State to a foreign power as had been done long ago in the case of Singapore. This was not the purpose of the new Agreement. This view having been accepted all went smoothly and the Agreement was signed by His Highness the Sultan ISMA'IL on the morning of 21st December.

24. The text of all nine Agreements will be found in Appendix II attached to this Report. Of the two originals as signed one has been forwarded to the Colonial Office and the other retained by the Ruler who signed it. Certified copies were prepared before I

left Kuala Lumpur and left in charge of the British Military Administration for retention in the archives of the Government when civil administration is restored.

Appendix III is a schedule giving the names and status of the Malay witnesses to the signatures of the Rulers.

25. It will be seen that the Agreements with JOHORE, SELANGOR, PANANG, PERAK, AND TRENGGANU are in identic terms, save only for the names of the States and the Rulers. The Agreement with NEGRI SEMBILAN differs only by virtue of the peculiar constitution of that State (see paragraphs 16 and 17 above). The small verbal variation to be noted in the first paragraph of the preamble and the second of the two clauses in the Agreements with KELANTAN and PERLIS is due to the fact in each of these two cases there had been only one previous Agreement concluded instead of several as elsewhere.

26. On Christmas Day I returned to Kuala Lumpur and on New Year's Day, 1948, I left for Singapore to take my leave of the Supreme Allied Commander. On 6th January I sailed from Singapore for the United Kingdom. X

27. My tour of the Malay Peninsula covered in all about 4,200 miles by car and lasted for 82 days (11th October, 1945, to 1st January 1946). The brief time spent in the country would obviously not warrant the expression of views upon the varying problems to be faced by those who will be responsible for its administration in the years to come, nor by any stretch of the imagination does such expression fall within my terms of reference. None the less I may be pardoned if I record one salient impression derived from my visit and the contacts which I formed since it relates very closely to the task entrusted to me, that of seeking the co-operation of the Malays through their Rulers in carrying out of the policy decided upon.

I had expected to find a state of high tension between the various racial groups. I did not find it. Certainly there was deep anxiety and even fear on the part of the Malays lest they be gradually submerged by immigrant Chinese; fears on the part of many Chinese that the position they had won for themselves would not be adequately recognised and nationalist concepts in the minds of others; sporadic cases of gangsterism and lawlessness on the part both of Malays and Chinese; some underground political activity and propaganda on both sides. But, as against all these unsurprising factors, stood out the obviously visible fact that men, women and children of every race were mixing amicably and confidently, in street and village, in work and play, at all hours of the day.

The lack of textiles and of rice affected all equally and serious politics were at a discount in comparison. My impressions were necessarily superficial, but surely hope for the future may legitimately be derived from such a state of affairs prevailing only a few months after the ejection of the Japanese invaders, at a time when the country stands upon the threshold of a new era and when the memories of many a betrayal, many an act of gallantry, many reprisals, are fresh in mind. What the future may hold in store for Malaya is no more predictable than elsewhere, but the country has the advantage of immense natural resources and a population which though mixed in race and to some extent animated by motives of mutual jealousy and suspicion, is far from being rent by any deep-seated hatred or basic incompatibility of temperament, or even by the clash of economic interests.

28. It remains only for me to acknowledge the unfailing helpfulness which I experienced from the military authorities, including the hard-worked British Military Administration, during my visit, and to give particular expression to the debt which I owe to Brigadier Newbould who, as I have described above, supported me throughout and without whose assistance my task would have been a hundred-fold more difficult, if not impossible of achievement. To Mr. Bourdillon of the Colonial Office I owe a similar debt of gratitude for the cheerful efficiency with which he carried out the multifarious duties falling upon him.

H. A. MacMICHAEL

Appendix I. "Explanatory Note"

His Majesty's Government have during the past years devoted much thought to the future of Malaya, and to the best means of leading the Peninsula, as a strong and united country, towards the goal of self-reliance and self-government within the British Commonwealth of Nations. Unless His Majesty's Government use their right of protecting Malaya in order to lead her forward in this direction, they will not have fulfilled their trust and will have failed to carry out their obligations towards the Malay people, towards the Malay Rulers as Leaders of that people, and towards the whole population of the country, of whatever race or creed.

2. Accordingly His Majesty's Government have decided that certain changes are necessary in the structure of Government which existed in Malaya before the Japanese invasion. They feel confident that the Malay Rulers will co-operate with them in bringing these changes into effect.

3. The first necessary change is that His Majesty should have such power in the nine States as will enable him to set up the institutions which will provide for the political development of the country as a whole.

4. That is the first step. The next step will be to create a Malayan Union which will consist of the nine States in the Peninsula, and of the Settlements of Penang (including Province Wellesley) and Malacca. It is intended that, at least for the present, Singapore shall not form part of the Union but shall be administered separately. The capital of the Union would thus be established at Kuala Lumpur and provision would be made for the special treatment of Singapore with its particular interest and its large Chinese population.

5. If the Malayan Union is to be a reality, and the country is to become strong and self-reliant there must be created a Malayan Union citizenship, which must embrace all persons truly belonging to the country. This would include all persons at any time born in the Union or in the island of Singapore, and all persons who at the date when Malayan Union citizenship is established, have ordinarily been resident in the Union or the island of Singapore for ten years out of the preceding period of fifteen years. (In calculating the fifteen years period, the period of Japanese occupation of Malaya will be disregarded.) These arrangements will ensure that the Malays of the country will automatically become Malayan Union citizens. It will also be possible for people to acquire Malayan Union citizenship on application after five years ordinary residence in the Malayan Union or in Singapore. All such applications will be carefully examined, and before being admitted to citizenship, applicants will be required to swear an oath of allegiance to the Malayan Union.

Thus there will be no fear that the Malays will be submerged. But side by side with the Malays, those men and women of other races whose real loyalty is towards Malaya will be able to reap the reward of their loyalty, for Malayan Union citizenship will carry with it the qualification for public and administrative service in the Union. This will strengthen the Malays and the country. (Great Britain has learnt the richness of such an infusion of new blood and talent and it is one of the foundations of her strength.)

6. The Malayan Union will be inaugurated with a central legislative body (the Legislative Council) which will include, besides the Governor of the Union, official and unofficial members nominated by the Governor. There will also be an Executive Council, which will have official and unofficial members in addition to the Governor.

As in the case of the Legislative Council the unofficial members of the Executive Council will be nominated by the Governor.

7. The Legislative Council will pass laws for the Malayan Union, but there will also be Councils in each State (State Councils) and in the two Settlements of Penang and Malacca (Settlement Councils). These Councils will be empowered to legislate first on all matters which, in the opinion of the Governor-in-Council, are of a local or private nature in the State or Settlement, and secondly, on all subjects in respect of which power is delegated to them by law by the Legislative Council of the Malayan Union. In each State and in the two Settlements the principal British officer will be called the Resident Commissioner, and he will preside over the State or Settlement Council. The members will be appointed by the Governor after he has consulted the Resident Commissioner.

8. Thus there will be a central legislature which will have ultimate authority, as is necessary if the Malayan Union is to be a real Union and is to be a source of political strength, but which will delegate to local Councils such powers as can best be exercised by them. But in deciding to establish this system, His Majesty's Government have constantly borne in mind the special position of the Malay Rulers as traditional and spiritual leaders of the Malay people. It is intended therefore, that the Ruler in each State will be provided with an Advisory Malay Council. This will be presided over by the Ruler, and he will appoint its members, subject to the agreement of the Governor. The main functions of these Advisory Malay Councils will be in respect of matters relating to Mohammedan religion, but there may be other matters on which their advice may be useful to the Ruler from time to time. On matters relating to Mohammedan religion (with the exception of matters connected with the collection of taxes or tithes, which must be left within the control of the central legislature of the State Councils), each Ruler will have powers of legislating in his State. In doing so, he will use his Advisory Malay Council, which for these purposes will have a legislative character. Laws resulting from this system will come into effect subject to the Governor's assent. The agreement of the Governor is necessary, because he must ensure the necessary co-ordination between the States in these matters, and he must also ensure that laws on matters relating to the Mohammedan religion do not come into conflict with the general law of the country. In this work the Governor will be assisted by an Advisory Council of the Malay Rulers together sitting with him.

9. This Advisory Council which will not only have the important task of passing in review all legislation on matters relating to

Mohammedan religion sent forward by the individual Rulers in their States, but will also discuss other subjects either at the instance of the Governor or, provided the Governor's agreement is obtained, at the instance of any of the Rulers, will meet regularly, with due ceremony, under the Presidency of the Governor, and will be regarded as a permanent body. It will not impair the right of direct access between the individual Rulers and the Governor. It will ensure that each of the Rulers can play his part not only in the affairs of his State, but in the future development of Malaya as a whole.

10. In other ways also, the dignity and prestige of the Rulers will be fully maintained. State Government property in general and assets (as well as State Government debts and liabilities) will be transferred to the Malayan Union Government, but this will not apply to the personal Residences and Estates of the Rulers themselves, to any State buildings and lands which are used for purposes of the Mohammedan religion, or to property pertaining to the endowment of Mohammedan religious institutions. Furthermore, on the financial side, the personal allowances of each Ruler will be maintained and secured on a scale appropriate to his dignity and position.

11. The new Malayan Union will not break with tradition. It will preserve the traditional and spiritual dignity of the Malay Rulers. It will be the policy to safe-guard the rights of the Malay people in matters of land reservation and in their facilities for education and progress. But while preserving the dignity of the past, the Union will look towards the future, and will establish Malaya and its people on a firm basis of progress and self-reliance. His Majesty's Government are confident that the Rulers will appreciate the opportunity which is theirs of helping to create a new and bright future for their country.

Lampiran 2:

Excerpts from the Letters of the Rulers Concerning Their Interviews with MacMichael

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APPENDIX D

EXCERPTS FROM THE LETTERS OF THE RULERS CONCERNING THEIR INTERVIEWS WITH MACMICHAEL

The first letter and copies of some of the others are to be found in the Maxwell Papers. All but the first are given here as quoted by Gam-mans in the debate on the Straits Settlements (Repeal) Bill in the House of Commons on 8 March 1946 (Hansard's, 420, 659-62).

D. 1. The Sultan of Johore to Secretary of State for the Colonies,
15 February 1946

As I have told you I gave my consent very readily to the proposals for a Malayan Union when they were submitted to me by Sir Harold MacMichael. As a result of the publication of the White Paper in Malaya there have been very serious repercussions and as I wish to be perfectly frank with you I have to say that they have led me to doubt whether . . . I gave the scheme the close scrutiny for which it called. Unfortunately I did not realise at the time its far-reaching implications . . .

(The Sultan mentions in particular the bitterness provoked by the citizenship proposals, "not only in Malaya but among the Malays in Ceylon." Four of his fellow-Rulers, "the heads of important States who are actually in the country and in close touch with the situation," had already made known their deep concern and apprehension.)

This grave situation has convinced me, after long and careful consideration, that it would be wrong of me if I were to adhere to the unqualified approval I gave originally to the scheme . . . I am sure you will agree that it is my first duty to do everything in my power to safeguard the legitimate interests of the Malays not only in my own State but in Malaya generally.

D. 2. The Sultan of Johore, letter written 6 March 1946

I was not in any way coerced or stampeded by Sir Harold MacMichael into signing the agreement he placed before me. I signed it quite willingly, firstly, because I was so happy and relieved at the liberation of Malaya from the Japanese occupation, and secondly, because I felt confident that I would not be asked to sign anything that was not in the interests of the Malays. It was impossible for me to consult either my State Council or the Executive Council which as a result of deaths and the Japanese occupation had simply faded away.

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But after thinking the matter over carefully and lengthily I came to the conclusion that I had signed the Agreement without scrutinising it as closely as I should have done, and that I had, unfortunately, not realised its far-reaching implications. I accordingly wrote to the Secretary of State for the Colonies on 15th. February telling him this and informing him that, in the circumstances, I could no longer maintain the unqualified approval I had originally given. ✓

D.3. The Sultan of Kedah to Sir Frank Swettenham, no date

I was presented with a verbal ultimatum with a time limit, and in the event of my refusing to sign the new agreement, which I call the Instrument of Surrender, a successor, who would sign it, would be appointed Sultan. Members of the State Council were compelled to sign an undertaking that they would advise me to sign it. I was told that this matter was personal and confidential, and was not allowed to tell my people what had taken place.

D.4. The Sultan of Perak

On 22nd. November, 1945, Sir Harold MacMichael came with Brigadier Newbould. I had been notified of his coming a few days beforehand but I had no idea as to what I had to do or say. He said he thought that I had heard of the proposed constitutional changes to be introduced into Malaya to which I replied that I had. He then spoke at length on the advantage that the people of Malaya would get from them. He then showed me the agreement that I had to sign giving His Majesty's Government full jurisdiction in my State and also a separate printed document containing notes showing in detail the constitutional changes referred to above. He said I could sign the agreement if I liked and that the Sultans of Johore, Selangor, Pahang and Negri Sembilan had signed it. I said that the proposed changes were very drastic and I had had no time to think the matter over or consult my Chiefs, which I must do before agreeing to such an important Agreement. I asked him to give me a little time, to which he replied that he would come the next day to sign it with me. At this meeting two of my chiefs were present . . .

In the morning on 23rd. November, 1945, I consulted my Chiefs in the presence of Brigadier Newbould. I told them that I was asked to sign the Agreement giving His Majesty's Government full jurisdiction in the State and Brigadier Newbould explained the whole matter and pointed out that we were at liberty to make suggestions and express our views for and against the proposals. He said all the suggestions and views of ours would be fully considered

by His Majesty's Government. One or two of the Malay Chiefs totally disagreed to the signing of the agreement, others left the matter in my hands on condition that our suggestions and views would be favourably considered by His Majesty's Government. They all deplored the fact that they had not been notified of it in due time. At 4 p.m. the same day Sir Harold came, and I signed the agreement. At the same time I handed to Sir Harold my letter addressed to himself giving my views for and against the details in the proposed changes. Sir Harold promised to put my comments and views to the British Government for consideration.

The transaction savours of haste. ^{keperluan} (One cannot but regret the ^{menentu} necessity for extreme speed in deciding the destiny of a nation ^{mosa hoga} when a little delay would have been conducive to wider counsel.) ^{sebab itu} In signifying my assent to the Agreement against my better judgement, I did so because I was caught in the atmosphere of haste and because I was engrossing my unshaken loyalty to the British Crown with full confidence that my rights and the rights of my people would not be disturbed.

Nevertheless I protested in writing against its terms and before submitting them Sir Harold assured me that they would be fully considered. In view of this fact it cannot be said that I have agreed to the serious implications of the proposed Malayan Union.

D.5. The Sultan of Selangor to Lord Marchwood, 18 February 1946

Sir Harold MacMichael called on me on 23rd. October 1945, in the afternoon. After exchanging the usual courtesies Sir Harold broached the subject of his visit. He asked, 'Has Your Highness seen in the newspapers the proposals for a Malayan Union?' I replied, 'I have, but they are not very clear to me.' Sir Harold said, 'The object of the Union is to ensure peace and progress for Malaya. It would be best for you to surrender your powers to the King. The Sultan of Johore has signed and surrendered his powers. I ask Your Highness and the other Rulers to give your consent and not to be recalcitrant.' My reply was, 'I trust the King unreservedly. I beg His Majesty and his Government to manage the affairs of my State with justice. The King is like my teacher and I his pupil. It is only fitting that I should be taught by him. I am anxious to protect the interests of my people, the Malaysans.' . . .

When Sir Harold came Brigadier Newbould made known to him all my suggestions. Sir Harold said, 'I shall convey Your Highness' views to higher quarters, but the sole purpose of my coming here is to obtain Your Highness' signature.'

Although Sir Harold spoke politely and uttered no threats, yet I felt compelled to sign the new Agreement for the following reasons:

unpleasant penalties to ourselves and what is more important to our people. During the two days which was all the time Sir Harold MacMichael and his party could give us there was the veiled implication that what we had been compelled to do might be held against us and furthermore we were told that as Johore, Selangor and Pahang had already signed it was pointless our not doing so.

Furthermore the last sentence in paragraph 5 of the White Paper says 'Great Britain has learnt the richness of such an infusion of new blood and talent and it is one of the foundations of her strength.' I would point out that Great Britain has never at any time accepted an alien influx as citizens, in numbers equal to the indigenous British population, and furthermore such immigrations as have occurred have been of closely related blood and of the same Religion, in neither case is this true of the Malays and Chinese.